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6 Counsel for Defendant
LAZER SPOT, INC.

8 **UNITED STATE DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 LEPATRICK FEATHERSTON, and
11 individual, on behalf of himself and all persons
similarly situated,

12 Plaintiffs,

13 vs.

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15 LAZER SPOT, INC., a foreign corporation;
16 EMPLOYEE(S)/AGENT(S) DOES I-X; and
17 ROE CORPORATIONS XI-XX, inclusive,

18 Defendants.
19
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Case No.

**DEFENDANT LAZER SPOT, INC.'S
NOTICE OF REMOVAL**

21 **DEFENDANT LAZER SPOT, INC.'S NOTICE OF REMOVAL**

22 Defendant Lazer Spot, Inc., by its attorneys and pursuant to 28 U.S.C. §§ 1331, 1332,
23 1441, and 1446, files this Notice of Removal of the above-titled action to this Court from Eighth
24 Judicial District Court in and for Clark County, Nevada. In support of this Notice of Removal,
25 Lazer Spot states as follows:
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1 **BACKGROUND**

2 1. On or about March 22, 2017, Plaintiff filed his Complaint in the Eighth Judicial
3 District Court in and for Clark County, Nevada, titled *LePatrick Featherston, et al. v. Lazer Spot,*
4 *Inc., et al*, Case No. A-17-752871-C. In his Complaint, Plaintiff alleges that Lazer Spot failed to
5 comply with 29 U.S.C. §§ 201 *et seq.* of the Fair Labor Standards Act and Nev. Rev. Stat. §§
6 608.05 *et seq.* (Compl. ¶¶ 40-68.)

7 2. On April 11, 2017, Plaintiff served a copy of the Complaint and the attached
8 Summons on Lazer Spot's registered agent, CSC. A copy of Plaintiff's Complaint, and all other
9 process, pleadings, and orders from the state court proceeding are attached hereto as **Exhibit 1**.

10 3. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) as it is being
11 filed within thirty (30) days after Defendant's receipt through service of a copy of an initial
12 pleading setting forth the claim or relief upon which this action is based.

13 **BASIS FOR REMOVAL**

14 4. This action is removable under 28 U.S.C. § 1441 because it is a civil action over
15 which this Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331. The
16 requirements of 28 U.S.C. § 1331 have been met because in the Complaint, Plaintiff alleges
17 violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*

18 5. Accordingly, this case is a civil action arising under the laws of the United States
19 over which this Court has original jurisdiction, and, therefore, is one which may be removed to
20 this Court pursuant to 28 U.S.C. § 1441(b).

21 6. The Court has supplemental jurisdiction over Plaintiff's individual, state law
22 claim pursuant to 28 U.S.C. § 1367(a), which provides that "in any civil action of which the
23 district courts have original jurisdiction, the district courts shall have supplemental jurisdiction
24 over all other claims that are so related to claims in the action within such original jurisdiction
25 that they form part of the same case or controversy under Article III of the United States
26 Constitution." Here, Plaintiff makes it clear in his Complaint that the same conduct by Lazer
27 Spot forms the basis of both his state and federal law claims; namely, Lazer Spot's purported
28 failure to pay Plaintiff a premium wage for overtime work. (See Compl. ¶ 53 ("Defendant's

1 failure and refusal to pay lawful wages to Plaintiff for overtime wages owed violated the FLSA .
2 . . .”), ¶ 64 (“Defendant’s failure and refusal to pay lawful wages to Plaintiff [for] his overtime
3 wages owed violated N.R.S. 608.005 *et. seq.* [sic].”).) 28 U.S.C. § 1367(c).

4 7. A district court may decline to exercise supplemental jurisdiction over a claim if:
5 (1) the claim raises a novel or complex issue of State law; (2) the claim substantially
6 predominates over the claim or claims over which the district court has original jurisdiction; (3)
7 the district court has dismissed all claims over which it has original jurisdiction; or (4) there are
8 other compelling reasons for declining jurisdiction. None of these factors are present in the
9 instant case. Indeed, other courts in this Circuit have concluded that the exercise of
10 supplemental jurisdiction is proper where all claims relate to the underlying wage dispute. *See,*
11 *e.g., Mincy v. Staff Leasing, L.P.*, 100 F. Supp. 2d 1050, 1058 (D. Ariz. 2000) (concluding that
12 “there [wa]s no doubt that the Court has jurisdiction over all Plaintiffs’ claims” where the
13 plaintiffs asserted an FLSA claim as well as “state law causes of action . . . all related to the
14 wage dispute”).

15 8. This action is also removable under 28 U.S.C. § 1332, which provides that “the
16 district courts shall have original jurisdiction of all civil actions where the matter in controversy
17 exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between — (1)
18 citizens of different States” 28 U.S.C. § 1332(a)(1).

19 9. Plaintiff is a citizen of the State of Nevada. *See* Complaint, ¶ 7. Lazer Spot is a
20 citizen of the State of Georgia for purposes of the diversity jurisdiction statute, because it is a
21 corporation organized under the laws of the State of Georgia and has its principal place of
22 business in Georgia. *See Exhibit 2* (Declaration of Rhonda Wilcox McCurtain); *see also* 28
23 U.S.C. § 1332(c)(1). The Court should thus conclude that there is complete diversity among the
24 parties.

25 10. Lazer Spot believes in good faith that the amount in controversy in this matter
26 exceeds \$75,000, exclusive of interest and costs, as required by 28 U.S.C. § 1332(a). In support
27 of its good faith belief, Lazer Spot relies on the allegations of the Complaint and Plaintiff’s
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1 prayer for relief in which Plaintiff seeks, among other things, back wages, liquidated damages,
2 injunctive relief, and attorney's fees.

3 **VENUE AND OTHER JURISDICTIONAL ISSUES**

4 11. This action is pending in the Eighth Judicial District Court in and for Clark
5 County, Nevada and, therefore, venue for purposes of removal is proper in this Court pursuant to
6 28 U.S.C. § 1441(a).

7 12. Prompt written notice of this Notice of Removal is being sent to Plaintiff through
8 his counsel and to the Clerk of Court of the Eighth Judicial District Court in and for Clark
9 County, Nevada, as required by 28 U.S.C. § 1446(d). A copy of the notice is attached as
10 **Exhibit 3.**

11 13. The undersigned has read this Notice of Removal, and to the best of the
12 undersigned's knowledge, information, and belief, formed after reasonable inquiry, certifies that
13 Defendant's factual allegations have evidentiary support, and its legal contentions are warranted
14 by existing law. The undersigned also certifies that this Notice of Removal is not interposed for
15 any improper purpose, such as to harass, cause unnecessary delay, or needless increase in the
16 cost of litigation.

17 DATED: May 1, 2017

18 Respectfully submitted,

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